FEB 26 1986

COMPLETED

GAO/IMTEC-86-3

United States General Accounting Office

GAO

Report to the Chairman
Committee on Veterans' Affairs
House of Representatives

January 1986

ADP TECHNICAL ASSISTANCE

DOD's Remedial Actions on Its Contract With Electronic Data Systems

ORIGINAL

GAO/IMTEC-86-3

BEST COPY AVAILABLE

GAO

United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-218821

January 17, 1986

The Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives

Dear Mr. Chairman:

In your March 19, 1985, letter, you requested that we evaluate the propriety of Electronic Data Systems' (EDS') role in performing its systems engineering and technical assistance contract with the Department of Defense (DOD). You mentioned that you had three concerns with this contract, which DOD will use to support its decisionmaking in procuring a Composite Health Care System (CHCS) for its hospitals. Your concerns focused on EDS' opportunity to

- discredit the merits of using the Veterans Administration's (VA's) software to meet the requirements for a CHCS at DOD hospitals;
- gain access to the proprietary data of its competitors in the hospital information systems field; and
- gain a competitive advantage in future competitions for three of four remaining Tri-Service Medical Information Systems.

On September 3, 1985, we briefed your office on the results of our work, particularly the events occurring after your letter. We pointed out that your concerns about EDS' role and the potential adverse effect this role could have on vendors and competition were well founded. Our analysis showed, however, that in April and August 1985 DOD took some remedial actions to alleviate the possible negative effect EDS' role could have on the CHCS competition and to avoid the potential conflict of interest resulting from EDS' involvement with the other Tri-Service Medical Information Systems.

Even though DOD is currently adhering to federal procurement regulations regarding its contract with EDS, DOD is incurring a potential risk in contracting with EDS for post-award technical assistance on the CHCS system. To provide assistance EDS will need access to the winning contractor's proprietary data. Under EDS' contract, access will be provided only after EDS signs an agreement with the winning contractor specifying that it will protect the contractor's proprietary information from unauthorized use or disclosure and refrain from using the information for any purpose other than that for which it was provided. Since EDS also provides hospital information systems, the winning contractor may refuse

BEST COPY AVAILABLE

to sign the non-disclosure agreement with EDS because it believes EDS might gain competitive advantage by having access to its proprietary information. Therefore, system deployment could be delayed. Because of this potential delay, we are highlighting this issue (see p. 5) for your consideration.

To accomplish our objectives we analyzed the systems engineering and technical assistance contract and related documents, such as the request for proposals, task orders, correspondence, and contract modifications. We talked with DOD officials in Washington, D.C., about EDS' responsibilities and DOD's actions taken or planned in addressing the concerns expressed by hospital information systems vendors. We interviewed representatives of selected hospital information systems companies to identify their concerns about the contract and DOD's restrictions imposed on the contractor. Our work, completed from April through September 1985, was performed in accordance with generally accepted government auditing standards. We discussed our evaluation with directly responsible officials; their views are reflected where appropriate. In accordance with the requester's wishes, we did not ask DOD to review and comment officially on a draft of this report.

Introduction

Through its Tri-Service Medical Information Systems Program Office, DOD plans to procure and deploy five automated systems to improve the effectiveness and economy of health care delivered by its military departments. The systems are: Tri-Service Food System, Tri-Service Logistics System, Automated Quality of Care Evaluation Support System, Central Processing and Distribution System, and CHCS. The program office is currently evaluating proposals from vendors bidding on CHCS, which is an automated hospital information system for DOD's network of 166 military hospitals. This acquisition is a two-stage process in which up to three offerors may be selected to develop their respective solutions and compete for the final award. The Congress, in an effort to ensure that DOD adequately evaluate the feasibility of using the existing VA software[1] for CHCS, has mandated that one of these offerors use and adapt VA's software. Final CHCS vendor selection will be based on the

[1]In February 1982, VA established its Decentralized Hospital Computer Program to provide an integrated health-care computer system to its hospitals. Development of software modules for mental health, surgery, radiology, etc., was nearing completion in September 1985 and by January 1986, VA planned to have six of the modules installed in most of its hospitals. Although the VA system supports essentially the same hospital functions as those planned for CHCS, CHCS will provide features not currently available in the VA software.

BEST COPY AVAILABLE

results of extended benchmark[2] tests and DOD's evaluation of revised technical and cost proposals.

On March 1, 1985, DOD signed a task order contract with EDS, an experienced provider of a full range of data processing services for hospitals, private health-care insurance companies, and Medicare and Medicaid programs. EDS' systems engineering and technical assistance contract was to assist the Tri-Service Medical Information Systems Program Office in acquiring and monitoring the performance of several medical information systems.

At the time DOD awarded the systems engineering and technical assistance contract, EDS also had a contract with VA to demonstrate whether EDS' commercial Hospital Information System could replace VA's Decentralized Hospital Computer Program. This and related contracts awarded in 1984 to two of EDS' competitors were let for the purpose of demonstrating, at three VA sites, the private sector's ability to meet VA's hospital information processing requirements. The contract between EDS and VA contains an options clause that enables VA to purchase EDS' system for as many as 34 additional hospitals, should it be found to meet VA's needs.

EDS' contract with DOD provided that EDS assist the program office in evaluating the technical proposals of vendors and selecting the winning CHCS vendor. EDS' participation was to include reviewing and analyzing technical aspects of proposals; commenting on their strengths, weaknesses, and risks; and preparing scenarios to test their operational and functional capabilities. Further, in performing its functions, EDS would provide engineering and technical assistance that would help shape the future direction of DOD's hospital information systems. The original systems engineering and technical assistance contract barred EDS from competing for one (CHCS) of the five automated systems.

Restrictive Actions Taken by DOD

To avoid the possible negative impact that EDS' involvement in the CHCS procurement could have on competition, DOD subsequently barred EDS from participating in the evaluation and selection of the CHCS contractor(s). Further, to avoid the potential conflict of interest should the program office ask EDS to provide engineering and technical assistance support on the other Tri-Service Medical Information Systems, DOD took

[2]A benchmark is a set of computer programs and associated data tailored to represent a particular work load and used to evaluate system performance or cost.

BEST COPY AVAILABLE

additional steps to prohibit EDS from competing for three of these systems.

On April 1, 1985, the contracting officer for CHCS sent a letter to the Tri-Service Medical Information Systems Program Office confirming that EDS should not participate directly or indirectly in the evaluation or selection of the CHCS vendors. According to DOD officials, this action was taken because potential bidders on the CHCS procurement voiced concern about a competitor in the hospital information systems market having access to their proprietary data during the selection process. One competitor indicated that with such knowledge EDS could increase its share of the commercial market. The contracting officer said the April 1 action bars EDS from reviewing and analyzing vendors' technical proposals or assisting DOD in selecting the CHCS contractor(s). He added that EDS will no longer have access to pre-contract proprietary information under the new restrictions. He pointed out, however, that subsequent to the CHCS contract award, EDS may be involved with the contractor's proprietary information while assisting the program office in managing CHCS' design, development, and implementation. He explained that, under contract provisions, disclosure would not be granted to EDS until it had signed a non-disclosure agreement with the CHCS contractor.

DOD's April 1 action essentially resolved two of your concerns. First, since it has been excluded from the CHCS evaluation and selection process EDS will not be in a position to discredit the VA software being considered for use in the CHCS. Because of EDS' contract with VA and the potential benefit it could derive from installing its system in 34 VA hospitals, EDS could use its technical support contract to skew the test results or provide a biased assessment of the technical merits of proposals offering the VA software as a means of satisfying CHCS' requirements. Second, since EDS was barred from evaluating CHCS vendor proposals, it will not have access to the technical information contained in its competitors' proposals. Thus, the potential conflict of interest that existed regarding EDS' pre-contract access to its competitors' proprietary data has been resolved. Our concern and the potential consequences of the CHCS contractor's denying EDS post-award access to its proprietary data are discussed on page 5.

On August 14, 1985, the contracting officer for the systems engineering and technical assistance contract and EDS signed a contract modification further restricting EDS' participation in the Tri-Service Medical Information Systems effort. The modification prohibits EDS from competing for three of the five medical information systems: CHCS, Tri-Service Food

BEST COPY AVAILABLE

System, and Central Processing and Distribution System. The Tri-Service Logistics System was not included because the contracting officer and EDS had not reached agreement on the prohibition. However, the contracting officer has instructed the program office to prohibit EDS from doing any further work on this system unless the conflict-of-interest provision in the contract is modified to bar EDS from competing for this system. A Tri-Service Medical Information Systems official informed us that EDS did not need to be barred from competing for the Automated Quality of Care Evaluation Support System because this system's hardware and software had already been acquired. In sum, your concern that EDS would have a competitive advantage in future competitions for Tri-Service Medical Information Systems has been resolved by DOD's August actions.

Potential Post-Award Problem

Although DOD's systems engineering and technical assistance contract and its remedial actions appear to comply with federal procurement regulations, DOD is incurring a potential risk by contracting for post-award systems engineering and technical assistance from EDS rather than from a contractor who does not market hospital information systems. Since EDS markets hospital information systems as well as engineering and technical assistance, the winning CHCS contractor responsible for developing and deploying a hospital information system for DOD's military hospitals and EDS will be in a competitive situation.

Because of this situation, the contractor may feel constrained because EDS could realize a competitive advantage should it gain post-award access to its proprietary data. The contractor might also believe that EDS cannot render fair and objective advice or pass impartially on the merits and technical performance of the hospital information system being developed for DOD's hospitals. If so, the CHCS contractor may refuse to sign the non-disclosure agreement that would give EDS access to its proprietary data. Without such access EDS cannot assist the program office in ensuring that delivered systems meet established quality standards and comply with functional and technical performance requirements. Thus, DOD may have to acquire the service of a substitute contractor who specializes in providing technical assistance services and not hospital information systems. The substitute may not, however, have the background knowledge that EDS will have acquired over a 2-year period while providing engineering and technical assistance for the Tri-Service Medical Information Systems. This, in turn, could threaten the timely deployment and installation of CHCS in DOD hospitals.

BEST COPY AVAILABLE

Your office has agreed that DOD's remedial actions, taken after your March 1985 request, essentially resolved your concerns about EDS' involvement with CHCS. However, because EDS competes in the hospital information systems market, its contract with DOD may continue to be an issue when it provides post-award technical assistance on CHCS. Granted, our concern that the CHCS contractor may not sign the non-disclosure agreement and that the CHCS project could be adversely affected if agreement is not reached is speculative. Nevertheless, we are making note of this matter should you wish to pursue it with DOD.

As arranged with your office, copies of this report are being sent to the Secretary of Defense and to the Director, Office of Management and Budget. Copies will also be made available to other interested parties who request them.

Sincerely yours,

Warren G. Reed

Warren G. Reed
Director

BEST COPY AVAILABLE

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are $2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

BEST COPY AVAILABLE